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C O N F I D E N T I A L SECTION 01 OF 03 NICOSIA 001505

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TAGS: [PGOV](#) [PREL](#) [PHUM](#) [ECON](#) [EUN](#) [TU](#) [CY](#)  
SUBJECT: CYPRUS PROPERTY: ORAMS RULING A SETBACK FOR GREEK  
CYPRIOTS

REF: A. LIBBY-SILLIMAN EMAIL (09/06/2006)  
[1](#)B. NICOSIA 959 AND PREVIOUS

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Classified By: Ambassador Ronald L. Schlicher, reasons 1.4 (b) and (d).

[1](#)1. (C) SUMMARY. Greek Cypriot plaintiffs owning land in north Cyprus have suffered a high-profile legal setback in the landmark "Orams" property case. On September 6, a UK judge ruled that an ROC court's cease-and-desist judgment against a British couple (who had built a home on Greek Cypriot land acquired under laws of the "TRNC") was not enforceable in the UK because of the suspension of the EU acquis in the north. The plaintiffs had claimed that EU regulations required the UK to honor the Cypriot judgment, and had asked the court to seize the couple's UK property as compensation. The plaintiffs can appeal to higher UK and/or EU courts, so it is unclear whether this tactical victory for the Orams (and their lawyer Cherie Booth Blair) will evolve into a strategic victory for the Turkish Cypriots -- who hope that the ruling will alleviate the dampening effect Greek Cypriot property lawsuits have had on foreign investment in their all-important tourism and real estate sectors. The previously successful Greek Cypriot strategy of using the courts to seek remedy for losses arising from the 1974 Turkish invasion has backfired at least temporarily -- leading politicians in the south to make uncharacteristically sheepish statements about the urgent need for a political solution on Cyprus. Although the Orams ruling is unlikely to undermine public faith in the Papadopoulos administration in the short term, it nonetheless highlights the costs of the ROC's coy approach to settlement talks. Property remains the Greek Cypriots' one significant pressure point, which the Turkish Cypriots will continue to exploit -- both by encouraging more development in the north and by seeking compensation from an embarrassed GOC for Turkish Cypriot land in the south. END SUMMARY.

ORAMS-1, APOSTOLIDES-0  
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[1](#)2. (SBU) On September 6, a UK court ruled against Greek Cypriot plaintiff Meletios Apostolides in the high-profile "Orams" property case (ref a). In 2004, Apostolides had brought suit in an ROC court against the British couple, David and Linda Orams, who had built a house on land belonging to him in Lapithos (Lapta). Although the Orams had purchased the land under the laws of the "TRNC," Apostolides retained the legally recognized, pre-1974 ROC title to the property.

[1](#)3. (C) In 2005, the Cypriot court issued a default judgment ordering the Orams to vacate the property, demolish the house they had built, and pay compensation. When the Orams refused to comply with the judgment, which was practically

unenforceable in the "TRNC," Apostolides brought suit in the UK, claiming the EU regulations required the British court to enforce the ROC ruling -- and asking that he be awarded the Orams' property in Sussex as compensation. The Orams, with moral and financial support from the "TRNC" government and business community, caused a major political stir when they retained the services of PM Blair's wife, attorney Cherie Booth Blair -- a development which infuriated many Greek Cypriots, who assumed HMG was deliberately poking them in the eye.

¶4. (SBU) The UK court, however, found that the ROC's judgment could not be enforced in the UK. In a 32-page ruling (much of which dealt with procedural questions of how the summons against the Orams was served), the British judge noted that Article 10 of Cyprus's accession treaty stipulated that the EU *acquis* would be suspended in the north pending reunification of the island. He noted in his ruling that this suspension -- which originally intended to ensure the ROC would not be held liable for its failure to implement EU laws in territory outside its effective control (i.e., the "TRNC") -- could not be selectively ignored for the purpose of punishing individuals for using property that did not belong to them. Although the judge acknowledged that Apostolides was the rightful owner of the property, he noted previous rulings, including those from the ECHR, which had held Turkey responsible for the property situation in the north. His decision indirectly suggested that Apostolides should more appropriately seek redress from the GOT (and perhaps even the "TRNC's" new Property Commission).

¶5. (SBU) The UK judge ordered Apostolides to pay 75 percent of the Orams' legal fees (some \$1.4 million), but conceded his ruling was subject to appeal -- presumably to a higher UK court and/or the European Court of Justice in Luxembourg.

GREEK CYPRIOTS POUR ON THE SPIN

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¶6. (C) The outcome of the Orams case (in which Greek Cypriot commentators were confidently predicting victory earlier this week) has been met with shock and disappointment in the south. Achilleas Demetriades, the super-star property lawyer who argued the Arestis and Loizidou cases (ref b), accentuated the positive elements of the ruling, stressing the court's recognition that Apostolides was indeed the owner of the land (this was never in doubt and not contested by the other side). AG Petros Clerides noted that the decision reinforced the policy of non-recognition of the "pseudo-state." He disputed the court's interpretation of Article 10 and the suspension of the *acquis*, and suggested that the ECJ would have to be the final arbiter in the case.

¶7. (C) Andros Kyprianou, spokesman of President Papadopoulos's coalition partner AKEL, sheepishly said that the ruling was proof that the Cyprus problem could only be solved through a political process, and not through legal procedures. The irony of this remark (which echoed a statement made on the same day by Turkish Cypriot leader Talat) was not lost on many observers -- who remember AKEL's counterproductive waffling during Annan Plan negotiations in 2004, and point to the party's strong endorsement of the heretofore successful strategy of suing Turkey and the Turkish Cypriots for property restitution and compensation.

TURKISH CYPRIOTS SKIP WITH GLEE

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¶8. (SBU) While "President" Talat and "Prime Minister" Soyer issued (comparatively) measured statements welcoming the decision, the Turkish Cypriot press and the Orams' local barrister trumpeted the outcome as a victory. Several commentators expressed hope that the ruling would help blunt the threat of future lawsuits, which has reportedly had a

dampening effect on the north's economy and spooked foreigners who were considering investing in the important real estate and tourism sectors.

¶9. (C) In a private meeting with us, Turkish Cypriot lawyer Emine Erk (the legal eagle in Talat's kitchen cabinet and an advisor to the Orams legal team) expressed hope that the ruling would wrong-foot the Papadopoulos administration and perhaps even undermine political support for his hard-line negotiating stance on the Cyprus problem. She noted that property was the one element of the Cyprus dispute that had a direct and personal impact on a large constituency of Greek Cypriot voters. Papadopoulos, she said, had to manage the property question carefully lest he be blamed for policies that lead to the permanent loss of Greek Cypriot property in the north.

¶10. (C) As a result, Erk claimed, the Presidential Palace was funding and directing the Apostolides legal team (Talat's office had also provided financial support to the Orams, she admitted). In Erk's opinion, the Greek Cypriots now faced an unpalatable choice between letting the ruling stand and taking the risk that the ECJ would issue an unappealable verdict in the Orams favor. She was "not sure what Papadopoulos would do," but expressed confidence that Orams -- and the Turkish Cypriot side -- stood a good chance of winning any appeal.

¶11. (C) Meanwhile, she noted, Turkish Cypriot claims against the ROC would continue apace, including an ECHR case she had just helped file the week before involving a Turkish Cypriot whose land in the south had been seized, without compensation, for use as a military base. Cases such as this, she said would throw into sharp relief the contradiction between Greek Cypriot demands that the Turkish side live up to European norms, and the ROC's failure to do so at home.

COMMENT  
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¶12. (C) Erk is probably overestimating Papadopoulos's vulnerability, but there nonetheless could be a political cost to pay if his administration's policy of vigorously pursuing every legal option to the fullest and playing coy in settlement talks continues to backfire. An ECHR ruling on the "TRNC's" new property restitution scheme could come within the next year, and a ruling in favor of the Turkish side would be an even bigger setback for the Greek Cypriots. Cognizant of the fact that property is their community's biggest trump card in an otherwise weak hand, the "TRNC government" is likely to continue promoting further development of Greek Cypriot land -- and supporting Turkish Cypriot parties in property law suits north and south. END

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COMMENT.

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